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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/595,769	06/16/2000	Kenton A. Buss	67264	1181

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EXAMINER

LEE, EDMUND H

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 07/03/2002

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/595,769

Applicant(s)

BUSS, KENTON A.

Examiner

EDMUND H LEE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 5-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 11-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-4 and 11-13, drawn to a method for making, classified in class 264, subclass 554.
 - II. Claim 5, drawn to product by process, classified in class 428, subclass 34.1.
 - III. Claims 6-10, drawn to an apparatus for thermoforming, classified in class 425, subclass 387.1.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by another and materially different process such as injection molding.
3. Inventions I and III are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus as claimed can be used to practice another and materially different process such as cold forming a polymer film.

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4. Inventions III and II are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another and materially different apparatus (MPEP § 806.05(g)). In this case, the product as claimed can be made by another and materially different apparatus such as an injection molding apparatus.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

6. During a telephone conversation with A. weeks on 6/12/02 a provisional election was made with oral traverse to prosecute the invention of group I, claims 1-4 and 11-13. Affirmation of this election must be made by applicant in replying to this Office action. Claims 5-10 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

7. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "said mold" (cl 1, lns 6-7, 11, 19, and 21; cl 3, ln 1) lacks proper antecedent basis in the claim.

Clarification and/or correction is required.

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8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 2, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Yon (USPN 337664). Yon teaches the claimed process including a method of making a molded article wherein the article has a substantially vertical wall portion and a traverse outer edge portion (figs 9)--as a note, the portion of the plastic material underneath the bulbous portion of the knob constitutes the substantially vertical wall portion; heating a sheet of plastic material having a mold side and an exposed side to a first temperature, wherein the first temperature is consistent with forming the sheet of plastic material in a thermoforming process (col 2, lns 45-55; figs 4-9); placing the mold side of the sheet over the mold, wherein the mold has a first surface form forming the substantially vertical peripheral wall portion and further having a second surface substantially perpendicular to the first surface for forming the edge portion (figs 4-9); applying a vacuum to the mold (col 3, lns 55-60; figs 4-9); forming a ridge along at least a part of the outer edge portion, the ridge being of a substantially uniform height (figs 4-9); cooling the sheet of plastic to a second temperature wherein the second temperature is consistent with the plastic material retaining its molded shape (figs 4-9)--as a note, such is inherent in order to prevent deformation of the molded article; releasing the vacuum from the mold (figs 4-9); cutting the molded article along the ridge to release it

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form the sheet (figs 4-9); and removing the sheet from the mold (figs 4-9); forming a ridge about the entirety of the outer edge portion at a substantially coequal distance from the wall portion (figs 4-9); and providing a channel edge of a substantially uniform width about the periphery of the article (figs 4-9).

10. Claims 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Yon (USPN 337664). Yon teaches the claimed process including a method of making a molded article wherein the article has an outer edge portion (figs 9); molding an article having an outer edge portion from plastic material in a mold, the outer edge portion having a ridge along at least a part of the outer edge portion wherein the ridge is of substantially uniform height (figs 4-9); cutting the article along the ridge such that the ridge defines the outer edge of the article (fig 4-9); and molding the ridge about the entirety of the outer ridge portion (figs 4-9).

11. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yon (USPN 3337664). The above teachings of Yon are incorporated hereinafter. Yon teaches using a metal mold to form the ridge (figs 4-9)--as a note, the use of metal mold is evident by the hatchings in the figures. However, Yon does not teach using a steel rule to form the ridge. Steel molds are notoriously well-known in the molding art for their durability. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the mold of Yon from steel including the portion of the mold forming the ridge in order to have a durable mold.

12. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yon (USPN 3337664). The above teachings of Yon are incorporated hereinafter. Yon

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teaches using a metal mold to form the ridge (figs 4-9)--as a note, the use of metal mold is evident by the hatchings in the figures. However, Yon does not teach using a steel rule to form the ridge. Steel molds are notoriously well-known in the molding art for their durability. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the mold of Yon from steel including the portion of the mold forming the ridge in order to have a durable mold.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Freek et al (USPN 5798079) teach thermoforming an article having a ridge on an outer edge portion.

14. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Examiner Edmund Lee whose telephone number is (703) 305-4019. The examiner can normally be reached on Monday-Wednesday and Friday from 8:00 AM to 4:00 PM. The fax number for Examiner Edmund Lee is (703) 872-9615

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jan H. Silbaugh, can be reached on (703) 308-3829.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

EHL

June 30, 2002



Edmund Lee 6/30/02

Patent Examiner, AU 1732